REMARKS

The above amendments and following remarks are submitted with the enclosed RCE. Having addressed all objections and grounds of rejection, claims 1-20 as amended, being all the pending claims, are now deemed in condition for allowance. Entry of these amendments and reconsideration to that end is respectfully requested.

The Examiner has rejected claims 1-5 and 16-20 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,583,561, issued to Baker et al (hereinafter referred to as "Baker") in view of U.S. Patent No. 6,049,823, issued to Hwang (hereinafter referred to as "Hwang") and further in view of the newly cited and applied U.S. Patent No. 5,600,573, issued to Hendricks et al (hereinafter referred to as "Hendricks"). In response thereto, claim 1 has been herewith amended to more clearly define Applicants' invention. This rejection is respectfully traversed for the following reasons.

However, to make a *prima facie* case of obviousness, which is the burden of the Examiner under MPEP 2143, he must show 1)motivation to make the alleged combination; 2)reasonable likelihood of success of the alleged combination; and 3)all claimed elements within the alleged combination. The Examiner

has failed to make these required showings.

The only attempt at showing "motivation" for the alleged combination of Baker, Hwang, and Hendricks is the simple statement repeated for both claims 1 and 16:

> Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Baker to include a number of video servers as taught by Hwang and buffering system of Hendricks to relieve the load on the VOD database server.

This statement is a conclusion; it is not evidence as required to establish a *prima facie* case of obviousness.

With regard to the requirement that the Examiner show a "reasonable likelihood of success" of the alleged combination, the Examiner is totally silent. Not only does he not present the required evidence, he does not even reach a conclusion.

Claims 1 and 16, as amended, are limited by a "transaction server" which "spools" video data for "streaming" by one of a plurality of "video servers". In this context, "spooling" is the function of downloading a requested video program from long term storage into a temporary storage readily accessible to the video server from which it is streamed (see for example Fig. 5, and corresponding description on page 19). The "spooling" process also stores the digitized video program in an order and format from which the video server need only perform a simple sequential

access of the data and direct output of the same to the subscriber. This simple sequential access of the data and direct output to the subscriber is "streaming".

It is the key feature of Applicants' invention that the "transaction server" handles all of the non-repetitive and functionally diverse tasks including "spooling", and the "video servers" perform only the repetitive and single function task of "streaming" (see Applicants' summary at pages 7-10). This architectural feature is not found in the prior art of record because Baker utilizes a single processing element for handling the transaction and streaming the data, thereby rending the "spooling" task unnecessary. Hwang does not utilize the "spooling" function because video data is simply "played back" from long term storage and output directly to the subscriber. Instead the Examiner alleges:

> Hendricks discloses a storage system 308 which receives content from a number of receivers and stores it and then spools it out on request, first buffering it in an ATM buffer, headend 208 only stores the first few seconds or minutes of a program and distributes it on demand, storage system 308 then supplies the of (sic) the video program to the storage device in headend 208 which then transmits the revainder of the program from the storage device within headend 208 seamlessly to the user (column 10, lines 1-23, column 14, line 59-column 15, lines 7, lines 31-46 (sic), column 19, line 65-column 20, line 18, column 21, line 38-column 22, lines 26).

Though this "sentence" is essentially incomprehensible, it is clear that storage 308 is located within Operations Center 202 (see Fig. 2 and Fig. 1). Furthermore, the outputs of storage 308 couple to Cable Headend 208 (see Fig. 1) and not subscriber units. Finally, the output "spooling" (Applicants prefer to utilize the industry standard term of "streaming") referred to in Hendricks is apparently accomplished by reading from a disk as explained at column 10, lines 7-9, which states:

> A video file server 215 with a redundant array of independent disks (RAID) is the primary and preferred hardware component for the storage and spooling device 308.

In other words, Hendricks has no need for a video server for streaming the output video to the subscriber, because it simply outputs from the reading of a disk.

Claim 2 depends from claim 1 and is further limited to "a transaction gateway operating in a middleware environment". This limitation is not found within Baker and the Examiner does not allege that it is. Instead, the Examiner confusingly states:

> Hwang discloses in Figures 2-4, that the transaction server and video library server are two separate devices.

Figs. 2-4 say nothing of a "transaction server" nor "video library server". Therefore, the finding of the Examiner is clearly erroneous on its face.

The Examiner continues:

> Hwang inherently contains middleware allowing the two different servers to interact.

Noticeably absent in the Examiner's finding of inherency is the showing required by MPEP 2112. Therefore, the rejection of claim 2 is incorrect as a matter of law.

Claims 6-15 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Hwang and further in view of newly cited and applied U.S. Patent No. 5,771,435, issued to Brown (hereinafter referred to as "Brown"). This ground of rejection is respectfully traversed for the following reasons.

Claims 6 and 11 are limited to providing a plurality of different video programs to a plurality of different subscribers from a single one of a plurality of video servers. As disclosed at page 20 of the specification, up to ten different programs can be streamed from a single video server of the disclosed preferred embodiment. The maximum number of different programs to be streamed, of course, involves the input/output passband of the individual video server.

This feature is readily distinguishable from Hwang, which states at column 13, lines 50-51:

> ....all the private-viewing functions require a dedicated Channel-processor for each customer.

Thus, claims 6-15 are deemed patentable over the prior art of record at least for this feature alone.

Having thus responded to each objection and ground of rejection, Applicants respectfully request entry of this amendment and allowance of claims 1-20, being the only pending claims.

Respectfully submitted,

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By their attorney,

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